

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

2021 Annual Retail Rates Filing)
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Docket No. 5127

**MOTION OF THE NARRAGANSETT ELECTRIC COMPANY D/B/A
NATIONAL GRID FOR PROTECTIVE TREATMENT OF
CONFIDENTIAL INFORMATION**

The Narragansett Electric Company d/b/a National Grid (“National Grid” or the “Company”) hereby respectfully requests that the Public Utilities Commission (“PUC”) grant protection from public disclosure certain confidential information submitted by the Company in the above referenced docket. The reasons for the protective treatment are set forth herein. The Company also requests that, pending entry of that finding, the PUC preliminarily grant the Company’s request for confidential treatment pursuant to 810-RICR-00-00-1.3(H)(2).

The records that are the subject of this Motion that require protective treatment from public disclosure are portions of “Attachment PUC 1-20” and “Attachment PUC 3-7-1” and “Attachment PUC 3-7-2” (collectively, the “Confidential Records”) which were filed by the Company on March 5, 2021 (PUC 1-20) and March 19, 2021 (PUC 3-7-1 and 3-7-2) and will be resubmitted on March 26, 2021 in the above referenced docket as part of the Company’s Responses to the PUC’s First and Third Set of Data Requests. The Confidential Records display customer account numbers which will be redacted in the public version submitted on March 26, 2021. National Grid requests protective treatment of the Confidential Records in accordance with 810-RICR-00-00-1.3(H), R.I. Gen. Laws § 38-2-2-(4)(A)(I)(b), and R.I. Gen. Laws § 38-2-2-(4)(B).

I. LEGAL STANDARD

For matters before the PUC, a claim for protective treatment of information is governed by the policy underlying the Access to Public Records Act (“APRA”), R.I. Gen. Laws § 38-2-1 et

seq. See 810-RICR-00-00-1.3(H)(1). Under APRA, any record received or maintained by a state or local governmental agency in connection with the transaction of official business is considered public unless such record falls into one of the exemptions specifically identified by APRA. See R.I. Gen. Laws §§ 38-2-3(a) and 38-2-2(4). Therefore, if a record provided to the PUC falls within one of the designated APRA exemptions, the PUC is authorized to deem such record confidential and withhold it from public disclosure.

II. BASIS FOR CONFIDENTIALITY

The Confidential Records are exempt from public disclosure pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(b) as “[p]ersonnel and other personal individually identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq” and R.I. Gen. Laws § 38-2-2(4)(B) as “[t]rade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature.” In this case, both R.I. Gen. Laws § 38-2-2(4)(A)(I)(b) and R.I. Gen. Laws § 38-2-2(4)(B) are applicable. However, the Company notes that qualifying for exemption under either provision is enough to satisfy the legal standard for withholding the Confidential Records from public disclosure.

The Confidential Records show customer account numbers. Releasing a customer’s account number to the public would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq. Accordingly, the Confidential Records may be withheld from public disclosure pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(b).

The Confidential Records may also be withheld from public disclosure pursuant to R.I. Gen. Laws § 38-2-2(4)(B). *The Attorney General’s Guide to Open Government in Rhode Island*

6th Edition¹ provides guidance as to the scope of R.I. Gen. Laws § 38-2-2(4)(B)'s applicability. It states that:

If a request is made for financial or commercial information that a person is obliged to provide to the government, it is exempt from disclosure if the disclosure is likely either: (1) to impair the government's ability to obtain information in the future, or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. If a request is made for financial or commercial information that is provided to the government on a voluntary basis, it is exempt from disclosure if the information "is a kind that would customarily not be released to the public by the person from whom it was obtained." *The Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001).

The Confidential Records consist of commercial information, specifically customer account numbers. National Grid would customarily not release this information to the public and its submission of the Confidential Records to the PUC is needed to comply with a PUC discovery request. Accordingly, National Grid is providing the Confidential Records to fulfil its regulatory responsibilities. Therefore, Confidential Records are exempt from public disclosure "if the disclosure is likely either: (1) to impair the government's ability to obtain information in the future, or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." See *The Attorney General's Guide to Open Government in Rhode Island 6th Edition*, p. 22.

The release of the Confidential Records is likely to cause substantial harm to the competitive position of National Grid and harm its customers. The Confidential Records contain commercially sensitive customer account numbers, the disclosure of which could negatively impact the Company's customers.

¹ <http://www.riag.ri.gov/Forms/AGguidetoopengovernment.pdf>

III. CONCLUSION

For the foregoing reasons, the Company respectfully requests that the PUC grant this motion for protective treatment of the Confidential Records.

Respectfully submitted,

NATIONAL GRID
By its attorney,



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Dated: March 26, 2021

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2021, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket No. 5127.

A handwritten signature in blue ink, appearing to read "Joanne M. Scanlon".

Joanne M. Scanlon